

Mechanics' Lien Update: Contracting With The Wrong Name Can Preclude You From Collecting On Monies Owed

Make sure you sign your contracts using the same name as it appears on your contractor's license or you risk losing your right to collect monies owed for work performed. You can also get fined or suspended by the CSLB.

California Business & Professions Code 7031 states that only licensed contractors can collect monies for work performed. What this really means has been left to the courts to decide.

The California appellate court on June 14, 2011, in a case called Ball v. Steadfast-BLK helped to clarify the 2007 landmark case Opp v. St. Paul Fire & Marine Insurance Company regarding who or what is a "licensed contractor".

The fact pattern in the landmark Opp case is typical. An unlicensed subcontractor, Mountain Connection, Inc., contracts with a licensed general contractor to perform work. Mountain Connection, Inc. is owned by a CSLB licensed "sole-proprietor". The general contractor does not pay Mountain Connection.

Mountain Connection, Inc. files a lawsuit to collect monies owed.

The question in the Opp case becomes; can an unlicensed corporation use an owner's sole-proprietor license in order to qualify itself as a California state licensed contractor. The Court said no, because the license used in the contract was issued to a "sole-proprietor" not a corporation. The corporation was therefore doing construction without a valid CSLB license. The corporation by law could not recover for the work completed. It was not enough that one of the corporate officers held a CSLB license.

The take away from the Opp case is that (1) the entity whose name is on the contract has to be licensed with the CSLB and (2) the name on the contract must be the exact name as registered with the CSLB. If it does not match, the person or corporation risks operating without a CSLB license.

Fast forward to June 14, 2011. The California Appellate Court was asked to address a similar fact pat-

tern in the case of Ball v. Steadfast-BLK.

In this case, David Ball held a contractor's license as a sole-proprietor. Ball entered into the contract as "David Ball dba Clark Heating & Clark Air Conditioning". Ball does the work and does not get paid. Ball files a complaint.

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The Court distinguished the Opp case from the Ball case by reasoning that a dba is not a separate legal entity but an extension of a sole-proprietor. Therefore, the name on the contract was a recognized name under the CSLB as a licensed contractor to perform work.

In summary, it is imperative to insure that your contract has the same name as your contractor's license so as to insure your rights to collect monies owed for work performed.

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